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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,385	07/14/2005	Hans Moller Rasmussen	PATRADE	3356
7590 James C Wray Suite 300 1493 chain Bridge Road McLean, VA 22101	10/10/2007		EXAMINER PARSLEY, DAVID J	
			ART UNIT 3643	PAPER NUMBER
			MAIL DATE 10/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/542,385	RASMUSSEN, HANS MOLLER
	<b>Examiner</b>	<b>Art Unit</b>
	David J. Parsley	3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 August 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 6 is/are allowed.
- 6) Claim(s) 1-5 and 7-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 July 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## **Detailed Action**

### ***Amendment***

1. This office action is in response to applicant's amendment dated 8-31-07 and this action is final.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7, 9-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,826,989 to Wattles et al. in view of U.S. Patent No. 4,065,911 to Fagan.

Referring to claims 1 and 9, Wattles et al. discloses a method/device of processing and packaging fillets, wherein the fillets are fed on to a conveyor belt – at 20,22,30, provided with a slicer – at 24, for cutting the fillets into fillet slices, and wherein at least a camera – at 40, and a calculation unit – at 42, are arranged near the conveyor belt for imaging and calculating characteristic parameters of the fillet slices – see figures 1,2a and column 4 lines 36-67 and column 5 lines 1-10, in that a weight determination of the fillet slices is performed – see column 4 lines 36-67 and column 5 lines 1-10, and on the basis of the weight determination the fillet

slices are conveyed along the conveyor belt where they are moved to and transferred to a selected area opposite the conveyor belt – see at 32 in figure 2a, and being placed on a transport table – at 32, following which the selected slice on the transport table is weighed – at 38, and the result is applied to the calculation unit – see figures 1 and 2a and column 12 lines 4-26. Wattles et al. does not disclose the slices are moved to and transferred to a selected package tray of a plurality of package trays and the package tray and slices are weighed. Fagan does disclose the slices are moved to and transferred to a selected package tray – see the card proximate 34,47 in figure 2a, and the package tray and slices are moved to a transport table – at 36,40, where the package, the tray and slices are weighed – see figures 1b, 2a and 2b and column 3 lines 5-65. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Wattles et al. and add the plurality of package trays of Fagan, so as to allow for the slices to be quickly conveyed in unison to subsequent processing stations.

Referring to claim 2, Wattles et al. as modified by Fagan further discloses that the transport packages are weighed each time a fillet slice is supplied to it – see figures 1b, 2a and 2b and column 3 lines 5-65. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Wattles et al. and add the plurality of package trays of Fagan, so as to allow for the slices to be quickly conveyed in unison to subsequent processing stations.

Referring to claim 3, Wattles et al. as modified by Fagan further discloses the weight determination of the fillet slices is determined as an estimate on the basis of the camera imaging of these – see figures 1,2a and column 4 lines 36-67 and column 5 lines 1-10 of Wattles et al.

Referring to claim 7, Wattles et al. as modified by Fagan further discloses the camera is additionally used for estimating other characteristic parameters such as area or shape – see column 3 lines 35-67 and column 4 lines 1-10 of Wattles et al.

Referring to claim 10, Wattles et al. as modified by Fagan further discloses that a weighing cell – at 44-52 of Fagan, is arranged below the slicer – at 12 – see figure 1a of Fagan. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Wattles et al. as modified by Fagan and add the weighing cell of Fagan, so as to allow for the size of the fillet to be accurately determined. The limitations of weighing the fillets before each cutting process are intended use/functional limitations in an apparatus claim and therefore these limitations have been considered but do not add any structural limitations to the apparatus claims.

Referring to claim 12, Wattles et al. as modified by Fagan further discloses the transport tables have horizontal surfaces – see at 32 in figures 1 and 2a of Wattles et al., and that they are disposed opposite the conveyor belt in positions where ejector means are arranged on the conveyor belt – see at 28,182 in figures 1 and 2a of Wattles et al.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wattles et al. as modified by Fagan as applied to claim 1 above, and further in view of U.S. Patent No. 6,320,141 to Lindee et al.

Referring to claim 4, Wattles et al. as modified by Fagan does not disclose the weight determination of the fillet slices is determined in that the entire fillet is weighted before it is cut in the slicer, and that the remaining part of the fillet is weighted after a fillet slice has been cut, following which the weight of the fillet slice is determined as a difference of the weighings of

the fillet before it is cut and after it has been cut. Lindee et al. does disclose the weight determination of the fillet slices is determined in that the entire fillet is weighted before it is cut in the slicer, and that the remaining part of the fillet is weighted after a fillet slice has been cut, following which the weight of the fillet slice is determined as a difference of the weighings of the fillet before it is cut and after it has been cut – see figure 1 and the abstract. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Wattles et al. as modified by Fagan and add the weighing of the slice before and after slicing of Lindee et al., so as to allow for the weight of the slice to be accurately determined so as to determine further processing of the slice.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wattles et al. as modified by Fagan as applied to claim 1 above, and further in view of U.S. Patent No. 5,324,228 to Vogeley.

Referring to claim 5, Wattles et al. as modified by Fagan further discloses the camera performs a geometrical determination of the circumference of the fillet slice – see column 4 lines 35-67 and column 5 lines 1-10 of Wattles et al. Wattles et al. as modified by Fagan does not disclose the camera performs a color analysis of the slice. Vogeley does disclose the camera – at 16,18, performs a color analysis – see figures 3-5 and column 3 lines 1-59. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Wattles et al. as modified by Fagan and add the color analysis of Vogeley, so as to accurately determine the size and shape of the product during use.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wattles et al. as modified by Fagan as applied to claim 1 above, and further in view of U.S. Patent No. 5,241,365 to Haagensen.

Referring to claim 8, Wattles et al. as modified by Fagan does not disclose the cutting of the fillet slice in the slicer from the same fillet is controlled on the basis of imaged and calculated characteristic parameters of a preceding fillet slice. Haagensen does disclose the cutting of the fillet slice in the slicer from the same fillet is controlled on the basis of imaged and calculated characteristic parameters of a preceding fillet slice – see figures 3-4 and column 3 lines 3-42. Therefore it would have been obvious to one of ordinary skill in the art to take the method of Wattles et al. as modified by Fagan and add the imaging controls of Haagensen, so as to allow for the slices to be made into specific sizes and weights.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wattles et al. as modified by Fagan as applied to claim 9 above, and further in view of U.S. Patent No. 5,466,186 to Hjorth.

Referring to claim 11, Wattles et al. as modified by Fagan does not disclose the conveyor belt is provided with spikes and a vertically extending surface. Hjorth does disclose the conveyor belt – at 222 or 230, is provided with spikes – see figure 2 and a vertically extending surface – see at 222 and 230 in figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Wattles et al. as modified by Fagan and add the conveyor belt with spikes of Hjorth, so as to allow for the product to be securely held in place during operation of the device.

***Allowable Subject Matter***

3. Claim 6 is allowed.

***Response to Arguments***

4. Regarding claim 1, the Fagan reference US 4065911 discloses a plurality of trays – see the cards proximate 34,47 in figures 1-2. Further, Fagan discloses the package trays – the cards, are disposed opposite the conveyor belt – at 47, on their own transport table – at any of the combination of belts comprising item 40. Applicant does not specifically claim a plurality of transport tables and the belts of item 40 comprise the transport table for the package trays and only one package tray is on the transport table – at 40 at a time and therefore each package tray is on its own transport table – at 40 during operation of the device of Fagan. Further, Fagan discloses the weight of the tray and fillet slice – at 36,40, is applied to the calculation unit – see figures 1-7.

Regarding claims 2-3 and 7, the Fagan reference discloses the trays are weighed when slices of product are on the trays – see figures 1-3.

Regarding claim 9, Fagan discloses weighing cells – at 36,40. Applicant does not specifically claim a plurality of transport tables with each table having a respective weighing cell.

Regarding claim 10, Fagan discloses a weighing cell – at 44-52 of Fagan, is arranged below the slicer – at 12 – see figure 1a.

Regarding claim 12, Wattles et al. US 6826989 discloses the transport tables have horizontal surfaces – see at 32 in figures 1 and 2a, and that they are disposed opposite the conveyor belt in positions where ejector means are arranged on the conveyor belt – see at 28,182 in figures 1 and 2a.

Regarding claim 4, Lindee US 6320141 discloses weighing slices of product before and after slicing as seen in the Abstract.

Regarding claim 5, Vogeley US 5324228 discloses the camera – at 16,18, performs a color analysis – see figures 3-5 and column 3 lines 1-59 and geometrical determination of the circumference – see figure 5. Further, Wattles et al. discloses scanning the products – at 40, to determine their physical parameters and shape as seen in column 4 lines 35-67 and column 4 lines 1-10.

Regarding claim 8, the Haagensen reference US 5241365 discloses the cutting of the fillet slice in the slicer from the same fillet is controlled on the basis of imaged and calculated characteristic parameters of a preceding fillet slice – see figures 3-4 and column 3 lines 3-42, where cutting of the fillet is done based on statistical data gathered from previously processed fish.

Regarding claim 11, the Hjorth reference US 5466186 discloses a conveyor belt – at 220 or 230, with spiked surfaces - see figure 2, and also including vertically extending surfaces along the thickness of the belts as seen in figure 2.

### *Conclusion*

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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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PRIMARY EXAMINER